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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/787,162	02/27/2004	Hideki Sadakata	000407.00027	4595

22907 7590 06/02/2005

BANNER & WITCOFF  
1001 G STREET N W  
SUITE 1100  
WASHINGTON, DC 20001

EXAMINER
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TRAN, KHOI H

ART UNIT	PAPER NUMBER
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3651

DATE MAILED: 06/02/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/787,162

Applicant(s)

SADAKATA ET AL.

Examiner

Khoi H Tran

Art Unit

3651

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 18 April 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-4 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**KHOI H. TRAN**  
**PRIMARY EXAMINER**

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1, 2, and 4 are rejected under 35 U.S.C. 102(e) as being anticipated by Ruskin et al. 6,644,495.

Ruskin '495 discloses a software downloading system for a vending machine per claimed invention. The system downloads new or updated operational instructions to the vending machine from a smart card. The system also downloads sales data from previous operations onto the smart card. The vending machine comprises a central processing unit that executes an operation data transfer program, which is stored in advance in said smart card, to thereby transfer the operation data from the vending machine to the smart card or transfer the operation data from the smart card to the vending machine.

3. Claims 1 and 4 are rejected under 35 U.S.C. 102(e) as being anticipated by Matsumoto 6,498,965.

Matsumoto '965 discloses software downloading system for a vending machine per claimed invention. The system downloads new or updated operational instructions

to the vending machine from a portable memory card (Figures 1-3). The system comprises a remote controller 400 for controlling operation of the system. The vending machine comprises a central processing unit that executes an operation data transfer program, which is stored in advance in the memory card, to thereby transfer the operation data from the memory card to the vending machine.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 2 and 3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ruskin et al. 6,644,495 in view of Matsumoto et al. 6,498,965.

Ruskin '495 discloses all elements per claimed invention. However, the system is silent as to the specific of a remote controller. The remote controller, which is really another control input means for the vending system, presents no novel or unexpected result over the controller used in Ruskin '495. Use of such remote controller in lieu of the controller used in the reference provides no stated problem and would be an obvious matter of design choice within the skill of the art. In re Launder, 42 CCPA 886, 222 F.2d 317, 105 USPQ 446 (1955). In addition, usage of a remote controller for controlling operations of a computerized vending system is notoriously well known, as shown by Matsumoto '965. Thus, providing a remote controller to Ruskin '495 system would have been obvious.

6. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Matsumoto et al. 6,498,965.

Matsumoto '965 discloses all elements per claimed invention. However, it is silent as to the specifics of downloading operational data from the vending machine to a portable medium.

Downloading a software program onto a portable medium for back up purpose, and/or for remote data evaluation, is notoriously well known within the computer environment. It would have been obvious for a person with ordinary skill in the art, at the time the invention was made, to have downloaded the operational data from Matsumoto '965 vending machine onto any type of portable medium because it facilitates at least backup means for the operational data.

#### ***Response to Arguments***

7. Applicant's arguments filed 04/18/2005 have been fully considered but they are not persuasive.

Applicant argued that both Ruskin et al. 6,644,495 and Matsumoto et al. 6,648,965 do not disclose the transfer program on a portable device. Therefore, the references do not anticipate the claimed combination of claims 1-4. This argument is not persuasive. According to Ruskin '495 and Matsumoto '965, the portable memory devices include new downloadable programs for affecting new operational procedures for the vending machines. The new downloadable programs are transfer programs. The new programs are downloaded from the portable medium onto the vending machines. Therefore, the programs are executed from the portable medium.

***Conclusion***

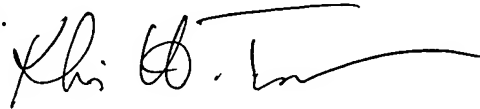
8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Khoi H Tran whose telephone number is (571) 272-6919. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Katherine Matecki can be reached on (571) 272-6951. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Khoi H Tran  
Primary Examiner  
Art Unit 3651

KHT  
05/26/2005